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2 **So Ordered.**



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5 *Patricia C. Williams*
6 Patricia C. Williams
Bankruptcy Judge

7 **Dated: October 25th, 2013**

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9
10 UNITED STATES BANKRUPTCY COURT
11 EASTERN DISTRICT OF WASHINGTON

12 In re:

DC No. 12-CV-633-RMP

13 LLS AMERICA, LLC,

Case No. 09-06194-PCW11

14 Debtor(s).

15 BRUCE P. KRIEGMAN, solely in his
16 capacity as court-appointed Chapter 11
17 Trustee for LLS America, LLC,

Adversary No. 11-80121-PCW11

18 Plaintiff(s),

19 vs.

REPORT AND RECOMMENDATION
RE: PLAINTIFF'S MOTION FOR
ENTRY OF DEFAULT JUDGMENT
AGAINST DEFENDANT CINDY
WETMORE (ECF NO. 68)

20 CINDY WETMORE,

Defendant(s).

21
22 The Honorable Patricia C. Williams, sitting in the United States Bankruptcy
23 Court for the Eastern District of Washington, hereby files this Report and
24 Recommendation regarding plaintiff's Motion for Entry of Default Judgment Against
25 Defendant Cindy Wetmore (ECF No. 68) filed with the bankruptcy court in this
26 adversary proceeding.

1 This Report and Recommendation is made pursuant to the Honorable Rosanna
2 Malouf Peterson's Order Withdrawing the Reference and Referring to Bankruptcy
3 Court for Further Proceedings entered on January 16, 2013 (ECF No. 2) in district
4 court case No. 12-CV-633-RMP.

5 The recommendation is that plaintiff's Motion for Entry of Default Judgment
6 Against Defendant Cindy Wetmore (ECF No. 68) be granted and the attached Default
7 Judgment be entered in this adversary proceeding. The basis for this recommendation
8 is that an Order of Default was entered by the bankruptcy court on September 17, 2013
9 (ECF No. 65).

10 ///END OF REPORT AND RECOMMENDATION///

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Attorneys to Bruce P. Kriegman, Liquidating Trustee

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

In Re:

LLS AMERICA, LLC,

Debtor.

BRUCE P. KRIEGMAN, Liquidating
Trustee under the liquidating trust for
LLS America LLC,

Plaintiff,

v.

CINDY WETMORE,

Defendant.

US District Case No. 12-CV-00633

Bankruptcy No. 09-06194-PCW11

Adversary No. 11-80121-PCW 11

**DEFAULT JUDGMENT AGAINST
DEFENDANT CINDY WETMORE**

JUDGMENT SUMMARY

- | | |
|---|-----------------------------|
| 1. Judgment Creditor: | Plaintiff Bruce P. Kriegman |
| 2. Attorney(s) for Judgment
Creditors: | Witherspoon Kelley |
| 3. Judgment Debtors: | Cindy Wetmore |

DEFAULT JUDGMENT- 1

{S0790517; 1 }



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4. Attorney for Judgment Debtor(s): None
5. Amount of Judgment: \$ 545,160.76 CAD
\$ 250.00 USD
6. Amount of Interest Owed to Date of Judgment: \$ 0.00
7. Interest Rate: 0.11% per annum

JUDGMENT

The Bankruptcy Court having previously entered an Order of Default against Defendant Cindy Wetmore (Adv. Doc. No. 65), and having reviewed the previously filed Memorandum of Authorities (Adv. Doc. No. 60), and the Affidavits of Curtis Frye and Shelley Ripley in Support of Plaintiff's Motion for Default Judgment filed herewith, and being fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Plaintiff, Bruce P. Kriegman, solely in his capacity as court-appointed Chapter 11 Trustee for LLS America, LLC, shall have a judgment against the Defendant Cindy Wetmore, as follows:

1. Monetary Judgment in the amount of \$545,160.76 CAD, pursuant to 11 U.S.C. § 550 and RCW 19.40.071;

2. Transfers in the amount of \$398,537.76 CAD, including \$130,000 in commissions, made to the Defendant within four years prior to the Petition Filing Date are hereby avoided and Plaintiff may take all necessary action to preserve

DEFAULT JUDGMENT- 2

{S0790517; 1 }

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the same, pursuant to 11 U.S.C. §§ 544, 550, 551 and 548(a) and (b) and RCW 19.40.041(1) and (2) and RCW 19.40.071;

3. Transfers in the amount of \$146,625.00 CAD made to Defendant more than four years prior to the Petition Filing Date are hereby avoided and Plaintiff may take all necessary action to preserve the same, pursuant to 11 U.S.C. §§ 544, 550 and 551 and RCW 19.40.041(1) and 19.40.071;

4. All said transfers to Defendant Cindy Wetmore are hereby set aside and Plaintiff shall be entitled to recover the same, or the value thereof, from Defendant Cindy Wetmore for the benefit of the estate of LLS America, pursuant to 11 U.S.C. §§ 544, 550 and 551;

5. All proofs of claim of the Defendant Cindy Wetmore, which have been filed or brought or which may hereafter be filed or brought by, on behalf of, or for the benefit of Defendant Cindy Wetmore, or her affiliated entities, against the Debtor's estate, in this bankruptcy or related bankruptcy proceedings, are hereby disallowed and subordinated to the monetary judgment granted herein and Defendant Cindy Wetmore shall not be entitled to collect on her proof of claim (Claim No. 677-1) until the monetary judgment is satisfied by Defendant Cindy Wetmore in full, pursuant to 11 U.S.C. §§ 502(d), 510(c)(1) and 105(a).

6. A constructive trust is hereby established over the proceeds of all transfers in favor of the Trustee for the benefit of the estate of LLS America; and

7. Plaintiff is hereby awarded costs (i.e. filing fee) in the amount of \$250.00 USD, for a total judgment of \$545,160.76 CAD, plus \$250.00 USD,

DEFAULT JUDGMENT- 3

{S0790517; 1 }



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1 which shall bear interest equal to the weekly average of one-year constant
2 maturity (nominal) treasury yield as published by the Federal Reserve System.

3 Entered this ____ day of _____, 2013.
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6

7 HONORABLE ROSANNA MALOUF PETERSON
8

9 *Presented by:*

10 WITHERSPOON • KELLEY

11 s/ Shelley N. Ripley

12 Shelley N. Ripley, WSBA No. 28901

13 Daniel J. Gibbons, WSBA No. 33036

14 Attorneys for Plaintiff
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DEFAULT JUDGMENT- 4

{S0790517; 1 }



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